

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications (including pingers) are not reducing bycatch to below the PBR level.

[63 FR 66487, Dec. 2, 1998; 63 FR 71042, Dec. 23, 1998]

#### § 229.34 Harbor Porpoise Take Reduction Plan—Mid-Atlantic.

(a)(1) *Regulated waters.* The regulations in this section apply to all waters in the Mid-Atlantic bounded on the east by 72°30' W. longitude and on the south by the North Carolina/South Carolina border (33°51' N. latitude), except for the areas exempted in paragraph (a)(2) of this section.

(2) *Exempted waters.* All waters landward of the first bridge over any embayment, harbor, or inlet will be exempted. The regulations in this section do not apply to waters landward of the following lines:

##### New York

40° 45.70' N 72° 45.15' W TO 40° 45.72' N 72° 45.30' W (Moriches Bay Inlet)  
40° 37.32' N 73° 18.40' W TO 40° 38.00' N 73° 18.56' W (Fire Island Inlet)  
40° 34.40' N 73° 34.55' W TO 40° 35.08' N 73° 35.22' W (Jones Inlet)

##### New Jersey/Delaware

39° 45.90' N 74° 05.90' W TO 39° 45.15' N 74° 06.20' W (Barnegat Inlet)  
39° 30.70' N 74° 16.70' W TO 39° 26.30' N 74° 19.75' W (Beach Haven to Brigantine Inlet)  
38° 56.20' N 74° 51.70' W TO 38° 56.20' N 74° 51.90' W (Cape May Inlet)

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. (Delaware Bay)

##### Maryland/Virginia

38° 19.48' N 75° 05.10' W TO 38° 19.35' N 75° 05.25' W (Ocean City Inlet)  
37° 52.1' N 75° 24.30' W TO 37° 11.90' N 75° 48.30' W (Chincoteague to Ship Shoal Inlet)  
37° 11.10' N 75° 49.30' W TO 37° 10.65' N 75° 49.60' W (Little Inlet)  
37° 07.00' N 75° 53.75' W TO 37° 05.30' N 75° 56.1' W (Smith Island Inlet)

##### North Carolina

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast

Charts 1:80,000 scale), and as described in 33 CFR part 80.

(b) *Closures*—(1) *New Jersey waters.* From April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear from the waters off New Jersey.

(2) *Mudhole.* From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh or small mesh gillnet gear from the waters off New Jersey known as the Mudhole.

(3) *Southern Mid-Atlantic waters.* From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear from the southern Mid-Atlantic waters.

(c) *Gear requirements and limitations*—(1) *Waters off New Jersey—large mesh gear requirements and limitations.* From January 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off New Jersey with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is no longer than 4,800 ft (1,463.0 m), and, if the gear is used in the Mudhole, the floatline is no longer than 3,900 ft (1,188.7 m).

(ii) *Twine size.* The twine is at least 0.04 inches (0.090 cm) in diameter.

(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.44 m, or 50 fathoms), in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(v) *Tie-down system.* The gillnet is equipped with tie-downs spaced not more than 15 ft (4.6 m) apart along the

floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(2) *Waters off New Jersey—small mesh gillnet gear requirements and limitations.* From January 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any small mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off New Jersey with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is less than 3,000 ft (914.4 m).

(ii) *Twine size.* The twine is at least 0.031 inches (0.081 cm) in diameter.

(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(v) *Tie-down system.* Tie-downs are prohibited.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(3) *Southern Mid-Atlantic waters—large mesh gear requirements and limitations.* From February 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear in Southern Mid-Atlantic waters, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel

may allow the vessel to enter or remain in Southern Mid-Atlantic waters with large mesh sink gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is not longer than 3,900 ft (1,188.7 m).

(ii) *Twine size.* The twine is at least 0.04 inches (0.090 cm) in diameter.

(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(v) *Tie-down system.* The gillnet is equipped with tie-downs spaced not more than 15 ft (4.6 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(4) *Southern Mid-Atlantic waters—small mesh gillnet gear requirements and limitations.* From February 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any small mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in Southern Mid-Atlantic waters with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is not longer than 2118 ft (645.6 m).

(ii) *Twine size.* The twine is at least 0.03 inches (0.080 cm) in diameter.

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(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(v) *Tie-down system.* Tie-downs are prohibited.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(d) *Other special measures.* The Assistant Administrator may revise the re-

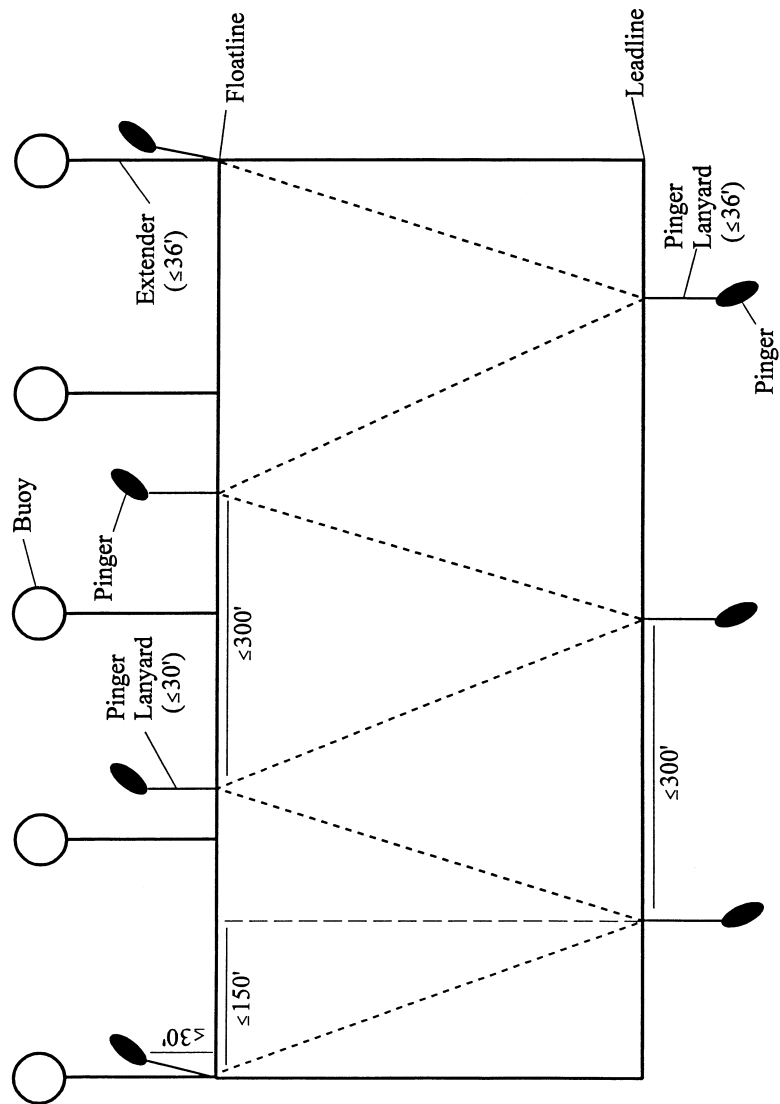
quirements of this section through notification published in the FEDERAL REGISTER if:

(1) After plan implementation, NMFS determines that pinger operating effectiveness in the commercial fishery is inadequate to reduce bycatch to the PBR level with the current plan.

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications (including pingers) are not reducing bycatch to below the PBR level.

[63 FR 66489, Dec. 2, 1998, as amended at 66 FR 2338, Jan. 11, 2001]

Figure 1. Drift Gillnet Pinger Configuration and Extender Requirements



[64 FR 3434, Jan. 22, 1999]